

DEPARTMENT OF TRANSPORTATION**AUDITS AND INVESTIGATIONS**

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February 13, 2008

Mindy Smith
Contracts Administrator
North County Transit District
810 Mission Avenue
Oceanside, CA 92054-2825

Re: Postaward Audit – Boyle Engineering
File No.: P1300A-0893; Agreement No.: 06058-Boyle

Dear Ms. Smith:

We have audited Boyle Engineering's (Consultant) proposed costs under Agreement No. 06058-Boyle with the North County Transit District (NCTD) to determine whether the proposed costs are reasonable in relation to actual historical costs and estimating procedures, and whether the Consultant's financial management system is adequate to accumulate and segregate reasonable, allocable and allowable project costs. We also reviewed the agreement to assess whether the required fiscal provisions are included.

The Consultant management is responsible for fair the representation of the proposed costs, ensuring compliance with contract provisions and state and federal regulations, and that the financial management system maintained by the Consultant is adequate to accumulate and segregate reasonable, allocable and allowable costs.

Our audit was conducted in accordance with the Performance Standards set forth in the *Government Auditing Standards* issued by the Comptroller General of the United States of America. The audit was less in scope than an audit performed for the purpose of expressing an opinion on the financial statements of the Consultant. Therefore, we did not audit and are not expressing an opinion on the Consultant's financial statements.

The standards require that we plan and perform the audit to obtain reasonable assurance about whether the data and records audited are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the data and records selected. It also includes assessing the accounting principles used and significant estimates made by the Consultant management, as well as evaluating the overall presentation.

The Consultant shall provide on-call engineering services on transit centers, rail and bus maintenance facilities, support facilities, and NCTD development/entitlement projects. The total amount of this agreement shall not exceed \$10,000,000. Reimbursement is to be made at specific rates of compensation to the following consultants:

Boyle Engineering (Prime)
Aguirre & Associates *
Ninyo & Moore *
Rick Engineering *
TY Lin International *
JM Diaz, Inc. *
Towill, Inc. *

* - Audit waived.

The scope of the audit was limited to financial and compliance activities related to the above referenced agreement. The audit consisted of verifying the proposed costs, an assessment of the accounting principles used, and significant estimates made by the Consultant; as well as, an evaluation of compliance with Code of Federal Regulations (CFR) 49, Part 18 and CFR 48, Chapter 1, Part 31. This audit included a limited scope audit of the Consultant. We reviewed the agreement, interviewed applicable personnel, and performed limited tests on the Consultant's financial management system and proposed costs as of December 23, 2007. Financial management system and cost proposal changes subsequent to this date were not tested and, accordingly, our conclusion does not pertain to changes arising after this date. We did not audit or examine the proposed indirect rates since a postaward audit is significantly less in scope than an incurred cost audit or examination. We reviewed the proposed indirect rates for the purpose of accepting contract progress billings.

Due to inherent limitations in any financial management system, misstatements due to error or fraud may occur and not be detected. Also, projections of any audit of the financial management system to future periods are subject to the risk that the financial management system may become inadequate due to changes in conditions, or that the degree of compliance with policies or procedures may deteriorate.

The results of the audit were communicated with Mindy Smith, Contracts Administrator, NCTD, and Clark Fernon, Managing Engineer, Boyle Engineering, on November 15, 2007, and December 7, 2007, respectively. Our findings and recommendations, the Consultant's response, and our analysis of the Consultant's response are set forth in the Attachment to this report.

CONCLUSION

Based on our audit work, we found all required fiscal provisions included in the agreement, except as noted in the Attachment to this report. In addition, the Consultant's proposed costs are reasonable in relation to actual historical costs and estimating procedures and the Consultant's financial management system is adequate to accumulate and segregate reasonable, allocable, and allowable project costs, except as noted in the Attachment to this report.

This report is intended solely for the information of the NCTD, Department, and the Federal Highway Administration. However, this report is a matter of public record and its distribution is not limited.

Please forward a copy of the revised agreement and cost proposal to Audits and Investigations. If you have any questions, please contact Linda Laubinger, Audit Manager, at (916) 323-7957.

ORIGINAL SIGNED BY:

Eugene Ezimora
Auditor

Approved:

ORIGINAL SIGNED BY:

MARYANN CAMPBELL-SMITH
Chief
External Audits

Attachment

c: Erwin Gojuangco, DLAE - 11
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ATTACHMENT
Postaward Audit Findings and Recommendations
Agreement No. 06058-Boyle
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Contract Findings

Finding 1

The Confidentiality of Data provision is missing from the executed agreement.

Recommendation: We recommend the Confidentiality of Data provision be incorporated in the executed agreement as required by the Local Program Procedures Manual, LPP-06-02, Chapter 10, Exhibit 10-R, Article XXII.

ATTACHMENT
Postaward Audit Findings and Recommendations
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Boyle Engineering

Finding 1

The proposed overhead rate of 163.60 percent is overstated. The evaluated overhead rate for fiscal year 2005 is 156.87 percent.

Recommendation: We recommend that the proposed overhead rate be revised to the evaluated rate of 156.87 percent for fiscal year 2005.

Auditee's Response: The Consultant disagreed with our finding. The Consultant stated that they are willing to accept the audited overhead rate of 156.87 percent for fiscal year 2005 if our office can support their assertion that costs associated with "Transfers to Direct" (computer, reproduction, communications, and mileage) are legitimate project expenses eligible as Other Direct Costs (ODCs).

Auditor's Analysis: The Consultant's response did not include additional information to support the proposed overhead rate of 163.60 percent. Therefore, our evaluated overhead rate of 156.87 percent for fiscal year 2005 stands.

During cost negotiations with the NCTD, the Consultant accepted a 6 percent ODC rate to be applied to direct labor. We evaluated the proposed 6 percent ODC rate and found it reasonable and supported.



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Employee Owned

Ms. MaryAnn Campbell-Smith
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1304 O Street, Suite 200
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January 16, 2008

Caltrans Audit of North County Transit District (NCTD) Contract No. 06058 with Boyle Engineering

Ms. Campbell-Smith:

As requested by Eugene Ezimora of your office, please consider this our formal response to the recent findings issued by your office with regards to our contract with North County Transit District (No. 06058). Although we disagree with the findings regarding overhead, we are prepared to accept the overhead rate of 156.87% that was proposed from our 2005 audit data, provided that your office can support our assertion that costs for computer, reproduction, communications, and mileage - which we treat as "Transfers to Direct" - are legitimate project expenses that are eligible as Other Direct Costs (ODCs).

Although the original submittal contained an ODC rate of 6.0%, this was a compromise negotiated with NCTD based on the understanding that our original submitted overhead rate of 163.60% would be used. Since this represents less than half of the actual costs incurred for these expenses (13.05%), we are currently in discussions with North County Transit District to adjust the contract ODC rate to match the actual expenses for the period of the contract in question (2006 to present). We would also like to note that given your reduced overhead findings, we will be requesting an increase to the overhead rate using our more recent audit data (2007), as part of the annual adjustment provisions of the contract. This is allowed by NCTD procedures.

Please contact myself or Richard Leja of our office at the number above, if you have any questions regarding this response.

Boyle Engineering Corporation

ORIGINAL SIGNED BY:

F. Clark Fernon, PE
Managing Engineer

cc: Mindy Smith, NCTD

BOYLE ENGINEERING CORPORATION